

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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DANIEL PENA RAMIREZ,

Case No. 11-CV-2931 (PJS/AJB)

Plaintiff,

v.

ORDER

UNITED STATES OF AMERICA,

Defendant.

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This matter is before the Court on plaintiff Daniel Ramirez's motion for reconsideration of the Court's order granting him leave to appeal *in forma pauperis* ("IFP"), but requiring him to pay the appellate filing fee in installments pursuant to 28 U.S.C. § 1915(b). The motion is denied.

Ramirez seeks to be excused from paying any (or at least most) of the fee, contending that assessment of the full fee constitutes an excessive fine and violates his rights to due process, equal protection, and access to the courts. These arguments are meritless. *See Murray v. Dosal*, 150 F.3d 814 (8th Cir. 1998) (per curiam) (rejecting access-to-courts, equal-protection, and due-process challenges to § 1915(b)); *cf. Browning-Ferris Indus. of Vt., Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 259-60 (1989) (Eighth Amendment's Excessive Fines clause does not preclude civil-jury award of punitive damages because such awards are not "punishment").

Ramirez also appears to ask, in the alternative, that his initial partial filing fee of \$32.51 be waived. Ramirez does not contend that he lacks the funds to pay the initial fee, however. Instead, Ramirez contends that he uses his money for additional food and hygiene costs. But "[i]f a prisoner determines that his funds are better spent on other items rather than filing a civil

rights suit, he has demonstrated an implied evaluation of that suit that the courts should be entitled to honor.’’ *Murray*, 150 F.3d at 818 (quoting *Roller v. Gunn*, 107 F.3d 227, 233 (4th Cir. 1997) (quotations omitted)). Ramirez’s motion for reconsideration is denied.

#### ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT plaintiff’s motion for reconsideration [ECF No. 66] is DENIED.

Dated: May 13, 2013

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge